



Keeping Public Information Flowing

By U.S. Sen. John Cornyn

As a public official, I have always pushed for government to be more open and transparent. Our democracy is based on the consent of the governed. If the governed are to give informed consent, then citizens must have access to as much information as possible.

James Madison was the principle drafter of the U.S. Constitution and later became our fourth President. He knew well how vital it was that public information about government be available and absorbed. “A people who mean to be their own Governors, must arm themselves with the power which knowledge gives,” he wrote.

It’s particularly important to keep open government a priority during wartime. Even as we take measures to prevent terrorists and other enemies of our country from obtaining data they should not have, we must make certain those steps do not unnecessarily restrict our own citizens from obtaining information about the functioning of their government.

I spoke last week in Austin at the annual meeting of the Texas chapter of the Freedom of Information Foundation. The foundation’s membership includes newspaper editors, academics, media executives and citizens who share my commitment to government transparency. They want to shine light into areas that some bureaucrats would like to keep dark.

Several years ago, when I was Texas Attorney General, I was extremely proud to receive this organization’s James Madison Award for my team’s efforts to strengthen and enforce open records and meetings laws in Texas.

Any party in power tends to be reluctant to share information, out of an understandable fear of arming its enemies and critics. We must fight that tendency. If government records can be open, they should be open. If good reason exists to keep something closed, it is the government that should bear the burden to prove that need – not the other way around.

The state of Texas enjoys a well-deserved reputation for enacting one of the strongest and most robust freedom of information laws in the country. In Washington, I’ve made it my mission to try to spread a little of that “Texas Sunshine” around the federal government.

I’ve worked closely on open government issues with Sen. Patrick Leahy, my Democrat colleague from Vermont. We both believe that openness in government should be a bipartisan concern. Regardless of our differences on various policy issues, we should all agree that those differences should be debated openly before the American people.

We’ve made some serious progress. Just this month, the Senate unanimously approved a bill I co-sponsored, written by Sen. Tom Coburn, a Republican from Oklahoma, which will bring light to the sometimes-murky

Congressional appropriations process. The Federal Funding Accountability and Transparency Act, S. 2590, will establish a publicly available database to show details of Congressional spending mandates known as “earmarks.”

In June of last year, the Senate also approved a Cornyn-Leahy bill that would require that any exemptions to free information requirements must be stated explicitly in the legislation.

These are major steps forward. If Congress is serious about making government more transparent, Congress should start by opening its own processes. I think we’re now on that path.

The executive branch is also responding. Late last year, President Bush issued an Executive Order that strengthens open government laws and reinforces a national commitment to freedom of information.

The order directs agencies to reduce backlogs of requests for information, creates a way for citizens to track the status of their requests, and establishes a procedure for resolving freedom of information disputes, short of litigation.

There is still much to do. Sen. Leahy and I have introduced the Openness Promotes Effectiveness in our National Government Act (OPEN Government Act, S. 394), and also a separate bill to establish an advisory Commission on Freedom of Information Act Processing Delays. These measures would fight excessive government secrecy in a variety of ways.

Access to information is important, but so is accelerating the response time for information requests. The right to access information is diminished greatly if requests are subject to lengthy delay.

These are critical times for those of us who believe in open government. We live in an era in which some information in the hands of the wrong people, such as terrorists or identity thieves, pose a great threat to us all.

But as we move to protect our society, we must make certain that government operates in full view of the people who fund it, and give their consent. Our democracy is based on the right to know. This is one of our most treasured civil liberties in America, one that should never be lost or forgotten.

Sen. Cornyn is a member of the following Senate Committees: Armed Services, Judiciary, Budget, Small Business and Entrepreneurship, and Joint Economic. He is the chairman of the subcommittees on Immigration, Border Security and Citizenship and Emerging Threats and Capabilities. Cornyn served previously as Texas Attorney General, Texas Supreme Court Justice and Bexar County District Judge. For Sen. Cornyn’s previous Texas Times columns: www.cornyn.senate.gov/column